

BIGGER AND BETTER: ON NUMBER OF SUPREME COURT JUDGES**Context:**

- ▶▶ Union Cabinet has recently approved a proposal to increase the strength of judges in Supreme Court from the present 31 to 34 (i.e. by 10%), including Chief Justice of India (CJI).

Introduction:

- ▶▶ The Cabinet has approved a bill to amend the Supreme Court (Number of Judges) Act, 1956.
- ▶▶ Against the backdrop of nearly 60,000 pending cases in the Supreme Court, a bill to increase the number of judges in the top court from 33 is an welcome move.
- ▶▶ At present Supreme Court has a sanctioned strength of 31 judges. (Including CJI).
- ▶▶ Most cases in India, because of delays at both the police and judiciary level take far longer.
- ▶▶ Across India's subordinate courts --- the first port-of-call for most cases --- more than a third of the 31 million cases have been pending for more than three years.
- ▶▶ In the High Courts, the pendency is even higher: half of all the 8 million cases in the High Courts have been pending for more than three years.

Recently, Chief Justice of India requested the same:

- ▶▶ Recently Chief Justice of India has a written request to the Prime Minister, highlighting the problem of paucity of judges.
- ▶▶ CJI also reasoned the same for his inability of constituting enough Constitution Benches to decide important questions of law.
- ▶▶ Due to the paucity of judges, the required number of constitution benches to decide important cases involving questions of law were not being formed.
- ▶▶ The way back in 1988, about three decades ago, the judge strength of the SC was increased from 18 to 26, and then again after two decades in 2009, it was increased to 31, including the CJI, to expedite disposal of cases to keep pace with the rate of institution.
- ▶▶ According to the statement of objects and reasons of the bill, the pendency of cases in the Supreme Court has constantly been on the rise due to comparatively higher rate of institution of cases.

Benefits of the move:

- ▶▶ Supreme Court of India is facing a large pendency of near about 59,331 cases as reported in July 2019.
- ▶▶ The decision will help in solving this perennial pendency issue.
- ▶▶ It will help in constituting more Constitutional Benches to decide important questions of law.
- ▶▶ It will also help in reducing time for the judicial procedures.

Existing Lacunae in the Supreme Court:

- ▶▶ There has been increasing number of civil and criminal cases that end up in Supreme court.
- ▶▶ So, it is not possible for the Chief Justice of India to constitute five Judges Bench on a regular basis to hear cases involving substantial question of law as to the interpretation of the Constitution.
- ▶▶ There is a debatable burden on the Apex Court to correct every decision of every High Court. The mundane matters which does not involve any interpretation of Law or Constitution and takes valuable time of the Court is burdensome.
- ▶▶ Routine bail matters land up in the Supreme Court within days of arrest of powerful persons.
- ▶▶ Every major crime or disaster seems to invite public interest litigation which mentions the matter before the Chief Justice for urgent hearing.
- ▶▶ The court is even being invited to even oversee flood relief work.

Way ahead:

- ▶▶ A mere increase in the court's strength may not be enough to liquidate the burgeoning docket. A reasonable restraint on the duration of oral arguments and a disciplined adherence to a schedule of hearings may be needed.
- ▶▶ The principal objectives should be to preserve the apex court's primary role as the ultimate arbiter of constitutional questions and statutory interpretation.
- ▶▶ There should be a proper mechanism and compartmentalisation of questions involving a final decision on routine matters, civil cases involving nothing more than the interest of the parties, so that there will not be any detraction from the Court's primary role.
- ▶▶ Some countries have brought in a clear division at the level of the apex judiciary by having separate constitutional courts, which limit themselves to deciding questions of constitutional importance.

Recommendations of the Law Commission:

- ▶▶ It may be worthwhile considering the 229th Report of the Law Commission, suggesting a new system under which there will be one Constitution Bench in Delhi, and four 'Cassation Benches' for different regions of the country.
- ▶▶ These will be final appellate courts for routine litigation.
- ▶▶ The 229th Report has also suggested territorial jurisdiction of each of these Cassation Benches of Supreme Court to be constituted under Article 130 of the Indian Constitution.
- ▶▶ This arrangement may also increase access to justice to those living in far-flung areas of the country and who may otherwise have to come to Delhi and spend more time and money in pursuing appeals. It may also cut down on the time taken for disposal of cases.

Conclusion:

- ▶▶ The feeder cadre of chief justices and judges of the high courts have increased from 906 to 1,079 and new HCs have also been established in the previous years.
- ▶▶ This has led to increase in the disposal of cases at the high court level leading to larger number of appeals to the Supreme Court.
- ▶▶ Likewise, to augment the strength of judges in the SC appropriately so that it can function more efficiently and effectively will go a long way to attain the ultimate goal of rendering timely justice to the litigant public.
- ▶▶ The idea of increasing the retirement age of HC judges by three years is a welcome move.
- ▶▶ This, in turn, would help to improve the vacancy position and, consequently, to reduce dependence on cases and also be in line with the (repeated) recommendations made by the permanent parliamentary committees.

GATEWAY